

\*\*E-Filed 12/6/10\*\*

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION**

MEDIMMUNE, LLC,

Plaintiff,

v.

PDL BIOPHARMA, INC.,

Defendant.

Case Number C 08-5590 JF (HRL)

ORDER<sup>1</sup> REQUESTING FURTHER  
BRIEFING

At the December 2, 2010, hearing on summary judgment motions, counsel for MedImmune, LLC, indicated that if the Court were to find as a matter of law that MedImmune did not breach its license agreement with PDL Biopharma, there would be no grounds for PDL's counterclaim for infringement, and the only remaining issue for trial would be MedImmune's most favored licensee claims.<sup>2</sup> In light of these statements, the Court hereby requests that the

<sup>1</sup> This disposition is not designated for publication in the official reports.

<sup>2</sup> Mr. Zweifach: [T]he key is if there's no breach, if there's no basis to charge the jury to find a sublicense then much of what's happened since last December goes away.

The Court: And you have a [most favored licensee] case which takes a week to try?

Mr. Zweifach: Max.

Hearing Transcript, December 2, 2010, at 69:23-70:4; *see also id.* at 66:15-67:5.

1 parties submit supplemental briefing addressing whether the Court must reach MedImmune's  
2 claim of invalidity in the event that it finds that as a matter of law MedImmune did not breach  
3 the license agreement. The parties' supplemental briefs, which shall not exceed five (5) pages in  
4 length, shall be filed on or before December 13, 2010.

5  
6 IT IS SO ORDERED.

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8 DATED: 12/6/ 2010

  
JEREMY FOGEL  
United States District Judge

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